

# QUID NOVI

Journal des étudiant-e-s  
en droit de l'université McGill  
McGill Law's  
Weekly Student Newspaper

Volume 33, n°8  
8 novembre 2011 / November 8<sup>th</sup> 2011

# QUID NOVI

Journal des étudiant-e-s  
en droit de l'université McGill

McGill Law's Weekly Student Newspaper

Volume 33, n°8

8 novembre 2011 / November 8<sup>th</sup> 2011

QUID NOVI  
3661 Peel Street  
Montréal, Québec H2A 1X1

<http://quid.mcgill.ca/>

**EDITORS IN CHIEF**  
Amanda Petrakis  
Hélia Taheri  
Thomas Gagnon-van Leeuwen

**ASSOCIATE REVIEWERS**  
Katherine Abarca  
Alexandra Belley-McKinnon  
Ivana Cescutti  
Eliza Cohen  
Kelly Cohen  
Giselle Davidian  
Kai Shan He  
Alexandra Lazar  
Angèle Périllat-Amédée  
Catherine Hamill  
Audrey Mayrand  
Golnaz Nayerahmadi  
Anh Thang Nguyen  
James Nowlan  
Laura Scheim  
Daniel Tsarevsky

**LAYOUT EDITORS**  
Katherine Abarca  
Jérémie Boulanger-Bonnelly  
Nicholas Choinière  
Rodrigo A. Garcia  
Kai Shan He  
Maxime Puteaux  
Gabriel Rochette

**STAFF WRITERS**  
Ludovic Bourdages  
Jonathan Brosseau  
David Groves  
Lee McMillan  
Alexandre Michaud  
Vincent Ranger  
Michael Shortt

**CARTOONIST**  
Andrew Baker

**WEBMASTER**  
Jérémie Boulanger-Bonnelly

## WHAT'S INSIDE? QUEL EST LE CONTENU?

|   |           |
|---|-----------|
| <b>ÉDITO</b>  | <b>3</b>  |
| <b>NIHIL SUB SOLE NOVI? NO PLACE FOR RACIST HUMOUR</b>        | <b>4</b>  |
| <b>AN INVITATION TO LUNCH ON ME</b>                           | <b>5</b>  |
| <b>WHEN IN DOUBT...</b>                                       | <b>5</b>  |
| <b>OH FER LAWFING OUT LAWD</b>                                | <b>5</b>  |
| <b>HOW FREE IS 'FREE SPEECH'?</b>                             | <b>7</b>  |
| <b>MUNACA'S SUPPORTERS HURT THEIR CAUSE</b>                   | <b>8</b>  |
| <b>PRIVACY, SHAME, AND WHAT WE OWE GAY TEENAGERS</b>          | <b>9</b>  |
| <b>À ANDRÉ BRETON</b>   | <b>12</b> |
| <b>FAITES-VOUS ENTENDRE: SSMU REFERENDUM</b>                  | <b>12</b> |
| <b>UPDATE FROM YOUR FRIENDLY GREEN LAW COMMITTEE</b>          | <b>14</b> |
| <b>LIBRARY NEWS</b>   | <b>16</b> |
| <b>FACULTY COUNCIL REPORTS</b>                                | <b>17</b> |
| <b>SAO REMINDERS</b>  | <b>20</b> |
| <b>TUTORIAL SERVICE ANNOUNCEMENT</b>                          | <b>22</b> |
| <b>LEGAL FRONTIERS NOMINATED FOR TOP 25 INTERNATIONAL LAW</b> | <b>22</b> |
| <b>BLOGS</b>  | <b>24</b> |
| <b>CRIME_11</b>   | <b>24</b> |
| <b>CARTOON</b>  | <b>24</b> |
| <b>THE LOYALTIES OF A LEGISLATOR</b>                          | <b>25</b> |
| <b>OVERHEARD AT THE FAC</b>                                   | <b>26</b> |

## WANT TO TALK? TU VEUX T'EXPRIMER?

Envoyez vos commentaires ou articles avant  
jeudi 17h à l'adresse : [quid.law@mcgill.ca](mailto:quid.law@mcgill.ca)

Toute contribution doit indiquer le nom de  
l'auteur, son année d'étude ainsi qu'un titre  
pour l'article. L'article ne sera publiée qu'à la  
discretion du comité de rédaction, qui

basera sa décision sur la politique de  
rédaction.

Contributions should preferably be submitted as  
a .doc attachment (and not, for instance, a  
".docx").

# HOW TO TREAT A TRICKY SITUATION

A cartoon by Patricia Nova appeared on p.28 in the last issue of the Quid, portraying two Indigenous people and a reference to trick or treating<sup>1</sup>. Over the course of the week, the Quid received feedback from some who felt the cartoon was inappropriate. We invite you to read thoughts by Joseph Paul Flowers, Eden Alexander and Scott Horne on pp.4-5, and the author's response on p.5.

As Quid Editors-in-Chief, this is a good opportunity for us to highlight our policy and how we deal with the delicate question of deciding whether or not to publish a submission.

First, we want to stress that all submissions the Quid receives are presumptively publishable. We aim to be not a finely curated magazine, but an open forum for members of our faculty to share their thoughts within reasonable limits, i.e. in accordance with our Editorial Policy. It goes without saying that the opinions of authors do not reflect those of the Editors-in-Chief or the Quid as a whole.

The Quid's Editorial Policy is published in the first issue of every semester and is available online at <http://quid.mcgill.ca/edpolicy.php>. Section 5 defines our Content Review Policy, which consists of four steps. At step 1, an Associate Reviewer or Editor-in-Chief (as was the case here) reviews the submission and flags potential questionable content. We quote generously for convenience:

Questionable content is content that, in the appreciation of that respective Editor, is either potentially offensive or potentially not suitable for publication. The following factors will be considered when assessing potential offensiveness: the overall tone of the submission, the specific word(s) used, the context in which they are used, coupled with an individual appreciation of the potential reaction to said material by the student body, professors, alumni, and the Montreal legal community.

Items that are potentially not suitable for publication include, but are not limited to: submissions that are too long or too short; submissions that have the potential to create a hostile environment for faculty or students; and submissions that are defamatory in nature.

At step 2, Discussion, the Editors-in-Chief meet to discuss and determine whether the submission contains questionable content.

Before going to press, we discussed whether or not to publish the cartoon. We felt the cartoon was treading on shaky ground — for example, because of the language used — but we ultimately felt that, in its spirit and its message, its goal was not to ridicule Indigenous people. We saw the cartoon as a satiric criticism of colonialism.

Reaching this consensus fairly quickly despite our reservations, we felt it was publishable. Accordingly, we did not proceed to step 3, Consultation, when we would have advised the author and had the option to consult with others.

Parlons brièvement du concept de *cartoon*. En français, ce mot signifie à la fois "bande dessinée" et "caricature". Or, les deux sens ont des connotations diamétralement opposées. Le premier semble inoffensif, divertissant. Le deuxième, au contraire, suggère le ridicule par la déformation et l'exagération. Dans le contexte journalistique, les caricatures cherchent à critiquer en utilisant le ridicule et l'exagération comme technique rhétorique. D'une certaine façon, toute la question présente tourne autour de ce concept. Pour nous, le dessin avait sans contredit pour but de critiquer les actions des colons, certainement pas à ridiculiser les Amérindiens. Cependant, c'est la nature même du dessin caricatural ou de bande dessinée d'utiliser des représentations stéréotypées ou exagérées pour faire passer le message. C'était le cas ici.

We all came to more or less the same interpretation of the cartoon and felt that, on that interpretation, it was publishable. However, people react differently: where we saw satire, some saw an insensitive and hurtful characterization of Indigenous people. In the past week, we have informally asked various people inside and outside the faculty how they feel about the cartoon: the reactions were all over the map. Some found it funny and clever, others juvenile but harmless, and others yet — as the following pages indicate — found it hurtful and problematic. To those people, we sincerely apologize: the last thing we want is for people to open the Quid and be hurt by what they see or read.

Week after week, the Quid strives to be the best publication possible. We strive to be a safe space, both for contributors to express their opinions without fear of being personally attacked and for readers to read without feeling offended or hurt. At the same time, we strive to be an open space that provides a platform for a wide range of ideas, from the serious to the silly, with as little editing as possible. Regarding this issue, last year's fourth issue provides a good debate on censorship in the Quid<sup>2</sup>.

Drawing the line on whether or not to publish a submission requires balancing these sometimes conflicting principles. It is a responsibility that rests at the end of the day with us Editors-in-Chief. We recognize that others might have made a different decision, but we stand behind ours. If anything, the publication of this cartoon has sparked a conversation that's important to have — and that's something we can all agree on.

1. <http://quid.mcgill.ca/issues/2011-2012/v33no7.pdf>

2. <http://quid.mcgill.ca/issues/2010-2011/v32no4.pdf>



SCOTT  
HORNE

# NIHIL SUB SOLE NOVI? NO PLACE FOR RACIST HUMOUR

Lately the Quid Novi has sullied its hallowed pages with racist "humour". One sneering offhand comment published under cover of anonymity glorified the "Young, White and Rich" ("Overheard at the Fac" (2011) 33:3 Quid Novi 18 at 18). That a student felt free to vaunt her whiteness says something unflattering about racial dynamics within the Faculty. Although the remark disconcerted a number of people, no one published an objection.

But a cartoon in last week's issue (Patricia Nova, "Cartoon" (2011) 33:7 Quid Novi 28) must not pass without comment. In the cartoon, a grinning Indigenous person stereotypically dressed with a quiver, a fringed garment, and a feathery headdress says to a similarly attired colleague "So as I'm bout to kill whitey, he saiz to me—it was so cute—he saiz: 'Trick or treaty?' So I pick treaty obviously, cuz like ... who'd wanna get tricked!?!"

I must admit that I do not understand quite what Ms Nova meant. I charitably assume that she intended a sardonic comment on the so-called treaties—formed under deception and duress, and in any event usually broken by the settler population—that served as legal cover for the genocidal oppression of Indigenous American nations (among them some of my ancestors, driven to their deaths along the Trail of Tears) and the white conquest of Turtle Island. Unfortunately, her attempt at humour not only trivializes the very real oppression that continues to this day but also diminishes Indigenous people by framing them as

babbling fools easily duped by fast-talking settlers. In contrast, it elevates white people as "cute" and clever negotiators who with wit and rhetoric subdued bloodthirsty savages. (I wish that the Taíno people had indeed "kill[ed] whitey", or at least deported him back to Spain, thereby preventing the American holocaust—which began with their own extinction just half a century after the fateful invasion of 1492. But I digress.)

Certainly humour can lend itself brilliantly to political commentary. Ms Nova's effort, however, reënforced derogatory representations of Indigenous people without making a clear political point. She might instead have written an article, complete with suggested courses of action, on any of the numerous issues of pressing collective concern to Indigenous people. For instance, thousands of Indigenous people across Canada live without running water, as an article in the latest issue of the McGill Law Journal shows (David R Boyd, "No Taps, No Toilets: First Nations and the Constitutional Right to Water in Canada" (2011) 57:1 McGill LJ 81). Indigenous people are disproportionately likely to experience police brutality, incarceration, unemployment, and poverty. Indigenous students and professors are grossly underrepresented in universities, not least our own. Past crimes, from the assimilationist destruction of Indigenous languages and cultures to the horrific physical and sexual abuse of "Her Majesty's red children" in the residential schools, remain cruelly relevant to the present. Any of these topics could have been profitably

addressed in the Quid—via an article, a poem, or even a well-focused and biting political cartoon. None, however, lends itself to frivolous, jocular treatment that bolsters racist stereotypes rather than challenging them.

For his criticism of blackface and other racist costumes, my friend Anthony Morgan recently formulated a rule that may perhaps be imperfect at the margins (which rule is not?) but nonetheless seems useful for assessing the appropriateness of racially tinged humour: if it would not be expressed to an audience composed mostly of the targeted population, it should not be expressed at all. I do not believe that a student writing for a magazine read primarily by Black people would have exulted in being "Young, White and Rich" or that Ms Nova would have submitted her cartoon to a publication with a mostly Indigenous readership. By the standard paraphrased above, those contributions were therefore equally inappropriate in the Quid, and indeed anywhere else.

These incidents indicate the sore need within the Faculty for frank discussion of racial dynamics. I invite everyone to take part in the exchanges being fostered this year by our own Black Law Students' Association and other groups at Montréal's universities. In addition, I encourage the hard-working editors of the Quid to strike a sensible balance between freedom of expression and a fair, respectful, dignified treatment of racialized populations.

EDEN  
ALEXANDER

## AN INVITATION TO LUNCH ON ME

Dear Patricia Nova and Quid Editors,

My first reaction to this cartoon was utter confusion.

I read it again, and again, grappling to find that common ingredient to cartoons: Some wit, some statement, some purposeful remark.

I found none. I became angry, I became frustrated, I became sad.

Eventually, I did see an attempt. With eyes of compassion I could see an effort to make a statement about the impacts of treaties. But I also saw archaic stereotypes that hurt me. And I feel sor-

row that neither the author, nor the editors caught the inappropriateness of the comic or its absolute lack of sense. Clearly, we all have a lot to learn.

For this reason I offer you all an invite to join the Aboriginal Law Students' Association for lunch someday, my treat. If we're really going to come to understand each other, if we're really going to deal with the root causes of harms against Indigenous peoples, then we really need to talk.

Please contact me,  
eden.alexander@mail.mcgill.ca

JOSEPH  
PAUL  
FLOWERS

## WHEN IN DOUBT...

Often I can sort of work through which stereotype is being exploited in an attempt to poke fun at various marginalized groups, but this cartoon simply makes no sense to me. I just have no clue what Ms. Nova was trying to say.

What applies to yogurt and chicken also applies to humor: When in doubt, throw it out.

PATRICIA  
NOVA

## OH FER LAWFING OUT LAWD

Dear Mr. Horne,

I do not agree with your claim of misunderstanding the cartoon, as your "charitable assumption" does a quite accurate job of summing up, albeit in quite the verbose manner, the core of the cartoon's intended statement: treaties were instruments of trickery exacted on a trusting and unsuspecting group. Yup! Period.

However what troubled me more are the other assumptions regarding my framing any group as "babbling fools" and "blood-thirsty savages", "easily duped" and "subdued" by another group of "fast-talkers", elevated, by such measure, to the height of "clever" cuteness. I believe that to be a stretch. Your wish that the Taíno people had indeed killed anyone is unsolicited

and kind of bone chilling. In fact, I find your whole analysis sort of grim, gruesome and hyperbolic. I personally do not wish for any killings. If anything I wish for a history filled with talks and laughs and mutually fair solutions. Call me crazy! I would like to focus my response on two points: One regarding my experience with Indigenous issues and another, in strong

defense of humour. I don't hold the two to be in conflict.

You demonstrate, dear Mr. Horne, a vast knowledge of Indigenous issues and history. My experience is of a more contemporary, empirical, grass-rooted nature. In fact, I dipped my attention in Indigenous matters by way of coincidence as they overlapped with my involvement in women's issues. Of all the symposia I recently attended, both Andrea Smith's talk entitled "Systemic Violence against Native Women and First Nations Land Struggles: Making the Links" and Debra Harry's "Indigenous Knowledge and Biocolonialism", shared, among many parallels, one very important strength of delivery: humour as an accompaniment to critique.

In fact, as I was mulling over the cartoon in question, I consulted my notes from the above-mentioned Andrea Smith talk. In her address of systemic violence against Native women, she proclaimed (in that catchy sarcastic manner that resonates with me so!): "...pretty soon the state, being the sneaky thing that it is, comes in and says, 'little ladies, it looks like y'all have a problem with violence and we'd like to help you solve that... victims need healing from someone with a PhD or an MSW'..." That the state continues to be a sneaky little trickster is a fact that permeates our historical past and our present. That it purports to know what is best for the Indigenous community and assumes this through its White liberal mentality is a fact that runs rampant, not only in our society's policy, but also here in our academic ivory towers. We too are still very much part of the problem! However, I reject any bloody or savage allusions; there needn't be anything murderous about miscon-

ceptions for them to be harmful. We are flawed and it is our responsibility to recognize this and keep taking steps to correct it.

This brings me to another Aboriginal speaker that drove a point home regarding humour. Last year's Gail Guthrie Valaskakis Annual Lecture on Diversity and Canadian Media presented the prolific playwright Drew Hayden Taylor's talk: "An Extremely Serious and Intensely Sober Exploration of Native Humour in Canadian Media". I found it both bold and compelling to hear Mr. Taylor confront the representations of Aboriginal peoples that inspired him to contribute his humour-laden take on Native issues: "vast majority of the Native plays, novels, scripts, stories and all the things being written by Native people or about Native people, were all dark, depressing, bleak, sad and angry". He claimed that this was far from the truth. Despite the travesties and injustices, humour aimed at the world and circumstances is not just an accompaniment to critique, it can also be an effective coping mechanism. In his own words: "Humour is the WD 40 of healing"!

From this allow me to get a little personal and unveil my own relationship to humour. Not that this is any competition whatsoever, I would like to disclose that the two groups that make up my culture and ethnicity are also of tumultuous historical origins. Being Polish and Jewish makes me no stranger to songs of oppression, invasion, genocide, racism - you name it! No, I am not merely accrediting myself with some sort of carte blanche regarding racial parody or satire... My point is that, "my" people, much in line with Mr. Taylor's mantra, found great utility in humour. A yiddish

saying goes: "bitterer gelekhter," that is, laughter through tears. Mark Twain was another to point out that "the secret source of humor itself is not joy but sorrow". And it is on the back of this approach that I defend the address of any tragic event or problem with a laugh. It is not to trivialize any issue but in the words of author Conrad Hyers, a "stubborn refusal to give tragedy... the final say".<sup>1</sup>

At the end of the day, I am led to conclude that humour, when measured right, is not culturally specific or exclusive but very instrumental in inciting discourse and facilitating communication. It is a boundary-crossing vehicle and we mustn't focus on its form so much as on the destination towards which it drives. This is not counter to a legalistic approach where an assessment transcends form and reaches into the pith and substance of any rule. I think you are conscious of the message conveyed in the cartoon, and I like to think that you would not disagree with it. You certainly disagree with its comic and satirical value. To this last point, let me just say that the purpose of cartoons of this nature is to get a laugh but more importantly, to provoke thought. Despite obvious controversy, a forum was opened and important issues brought to the forefront - and that, my dear colleague, is good enough for me!

*Ex Animo,*  
Patricia

1. M. Conrad Hyers, "The Dialectic of the Sacred and the Comic," in M. Conrad Hyers, ed., *Holy Laughter: Essays on Religion in the Comic Perspective* (New York: Seabury Press, 1969), p. 232.



FRANCESCA  
TADDEO

# HOW FREE IS 'FREE SPEECH'?

I would like to take this opportunity to address hopefully serious questions that concern the conception of free speech in the current labour dispute at McGill. MUNACA and certain supporters of the strike are latching on to the term 'free speech', of which they seem to have a confused understanding. Jérémie Boulanger-Bonnelly's article in last week's Quid only exacerbates the seriousness of this problem (but please know that my views are in no way personally directed at him, but only at his arguments).

On October 28th, 2011, MUNACA held a funeral to remember free speech at McGill University. The President of MUNACA eulogized that "Free Speech was a well-respected member of the McGill community but three court injunctions managed to end his life in a dramatic way." Michael Shortt's article in the Quid last week perfectly encapsulates the points I would have made regarding why such injunctions were necessary. Regardless, stating that free speech has died is hyperbole: union members can still picket around campus property and around Montreal, talk to the media, maintain and update their website, hand out flyers and organize mock funerals. The right to picket on university campus was only restricted by an injunction after many disturbances on behalf of MUNACA, and their inability to picket in a respectful way (again, please see Michael Shortt). It also goes without saying that the funeral for 'free speech' that was recently held is an insult to

people around the world who do not live in democratic societies, and who have actually died, or have been imprisoned and tortured for promoting such rights. Visiting Amnesty International's website ([www.amnesty.org](http://www.amnesty.org)) would be a great start for seeing what people who live in a 'no-free-speech' regime really suffer.

There is also a troubling double-standard with regards to how 'free speech' is promoted from within the union. This argument applies beyond MUNACA to unions in general. How many people marching in the 'free speech funeral' or picketing actually do so out of 'free will,' a concept which I certainly hope is equated with that of 'free speech?' MUNACA's website states that: "you must participate in strike activities in order to get strike pay." <http://munaca.com/sites/data/MUNACA%20Strike%20Q&A.pdf> What if some MUNACA members are morally opposed to striking, or to measures taken by the union administration, all the while remaining sympathetic to their union's demands? Such complexities of the heart do exist. Should not the definition of free speech include, or extend to, abstaining from publicly engaging in an activity with which one disagrees in order to get a paycheck?

Moving along to address the article by Jérémie Boulanger-Bonnelly. It is disconcerting that students would support a campaign to boycott the administration's emails. How is de-

manding to be removed from a listserv sent out by one of the parties in a labour dispute not boycotting or stifling the administration's very own free speech? By boycotting one of the parties, is that not imposing on the administration the same 'baillon' that the author deplorers is being applied to MUNACA? Is deciding who gets to have 'free speech' actually promoting 'free speech', and if so, how does this respect the principles of democracy? "Il est malheureux de constater un changement profond dans la teneur et le vocabulaire utilisé par nos Officiers de l'Administration Senior." Could the author be failing to consider that such a tone is a reflection of the increasingly ugly tactics being employed by the union? (again, please see Michael Shortt)

The administration does not force anyone to read its emails: we are not asked for a confirmation of receipt, nor are we getting pop quizzes on their contents in order to get our credits. If a student believes that the email is propaganda, as the author suggests, there exists a troublesome but easy way out. A student can simply click the 'delete' button without reading, or as the author prefers, ask to be removed from the listserv. But if one refuses interact with the information provided by one party in a strike, how could one expect to maintain a position on the strike, and in this case, an opinion as to the conduct of the administration? I would suggest that anyone who asks to be removed from the listserv should also refrain

from having an opinion on the labour dispute.

*“Et ce qui me paraît le plus aberrant, c'est le silence de MUNACA dans nos boîtes de courriels qui n'est dû qu'à l'interdiction de McGill d'utiliser le même système pour nous contacter.”* As students, we are members of the McGill community, not the MUNACA community. The author seems to equate silence of MUNACA in our inbox with silence period. Please refer to Paragraph 2 to see how MUNACA is not silenced. I would also like to direct people to [www.munaca.com](http://www.munaca.com). The fact that MUNACA does not send out listservs in no way restricts any kind of access to information that students may have. “Ainsi les étudiants pour-

ront prendre connaissance des deux côtés de la médaille, faire la part des choses et forger leur propre opinion.” If those sharing the opinion of Mr. Boulanger-Bonnelly feel like they have the energy to conduct further research after the exertion of visiting the MUNACA website, students can (and should!) also keep up on strike news by reading news articles on the issue, and maybe even by talking to members of MUNACA if they feel comfortable doing so. Armed with all these resources, how is it that not being on a listserv withholds any form of information or debate on an issue?

*“L'administration me dit que je suis le seul à m'opposer à ces courriels, alors unissons nos voix, et soyons McGill”.*

As someone who has benefitted from an amazing and enriching undergraduate degree at McGill before entering the Faculty of Law, I am very upset that ‘soyons McGill’ would mean having disregard for the administration that works so hard to provide its students with an environment in which they can thrive and receive a world-class education. In the spirit of intellectual enrichment that has been part of McGill since its inception, I have a great idea for how ‘being McGill’ is possible: fostering dialogue between people with differing opinions on the strike, in order to encourage a timely resolution of this dispute.

*Law II*

SCOTT  
HORNE

## MUNACA'S SUPPORTERS HURT THEIR CAUSE

The recent articles by Wayne Burke (“Does My Opinion Matter to You?” (2011) 33:7 *Quid Novi* 4), Brett Hodgings (“Hyperbolic Language Is Oppressing Me” (2011) 33:5 *Quid Novi* 5), and Michael Shortt (“MUNACA Has Lost the Moral High Ground” (2011) 33:7 *Quid Novi* 8) correctly criticize the excessive and unreasonable words and deeds proffered in behalf of MUNACA. I wish to call attention to an appalling incident that appears not to have been reported elsewhere.

Three weeks ago, an obnoxious man disrupted a modest little two-hour social event at the Thomson House that

the McGill Equity Subcommittee on Queer People hosts annually for present and past members of the McGill community. Wearing a dress and an outlandish wig in apparent mockery of queer people, he proceeded to the buffet and grabbed up the bulk of the food, shovelling it indiscriminately into a big handbag. This behaviour, he explained, was punishment for holding the event during the strike. He refused to leave when told that he was unwelcome, and he threatened an even uglier disruption unless a statement were made on the spot in support of the union. He succeeded not only in spoiling the event but also insulting

and offending many of its participants.

Far from advancing their cause, vigilantes embarrass its supporters and alienate others. Unfortunately, aggressive advocacy for the union has been degenerating into dishonesty, subterfuge, incivility, and even criminality. Whatever one may think of the dispute, these unseemly performances by MUNACA's camp plainly operate to the advantage of the university's administration. MUNACA and its supporters would do well to distance themselves from these excesses and present their case as reasonably and respectfully as possible.

ROBERT  
LECKEY

# PRIVACY, SHAME, AND WHAT WE OWE GAY TEENAGERS

How does the recent suicide of fifteen-year-old gay teenager Jamie Hubley relate to the outness of gay public figures?

I knew about Hubley's sad death, had seen Rick Mercer's rant on his TV show, and read the *Globe and Mail's* editorial on the subject ("No, Rick Mercer, Not All Gay Figures Need to Step Forward," Oct. 28). But as a new Quebecer and convert to Radio-Canada, I needed my parents back in Ontario to tell me how much coverage the issue has received on CBC Radio.

Rick Mercer gave a long interview on CBC Radio's *The Current* (Oct. 27; <http://www.cbc.ca/news/canada/story/2011/10/27/rick-mercier-current-interview.html>). Then CBC Radio's *Q* presented an even longer debate on whether public figures have a moral obligation to come out (Nov. 1; <http://www.cbc.ca/q/blog/2011/11/01/is-there-a-moral-obligation-to-come-out/>). The debate opposed Karim Bardeesy of the *Globe and Mail*, defending the *Globe's* editorial and people's right to privacy, and Brenda Cossman, professor in the Faculty of Law and director of the Mark Bonham Centre for Sexual Diversity Studies at the University of Toronto, who defended the moral obligation to come out.

Both radio segments are worth listening to, and Cossman won the debate. She persuasively made the case that gay public figures have a moral obligation to be visible, and that such steps can be expected to help in what she acknowledged to be a complex, multi-faceted response to the acute problem of homophobic bullying and suicides by gay teens. She rightly made clear that her position was not that public figures' coming out will necessarily and directly save lives. The slogan wasn't, she said, come out, save a life. But we can reasonably see it as contributing to the

improvement of conditions for gay teens. She acknowledged, as had Mercer, that kids' coming out in high school, as opposed to later, presents distinct and difficult challenges.

As it happens, I recently wrote a blog entry praising a scholarly article that critically addresses the discourse around homophobic bullying. It will appear, later this month, on the equality page of *jotwell.com*. In the meantime, as a *Quid Novi* exclusive, the entry appears below. McGill subscribes to the journal and you can access the full article I discuss through the McGill library.

Before letting my blog entry do the talking, I want to elaborate on the assertion by the *Globe and Mail's* editorial board that people have the right to privacy about their sexual orientation. The newspaper's board sees it as just one element of people's plural identities. Cossman capably addressed this contention. She said that the high number of teen suicides makes sexuality no longer a purely private issue, involving it in a pressing social problem. She also observed that the concern for the privacy of gay figures rests, to an extent, on an abiding sense of shame regarding a minority sexual orientation. (She opposed the outing of public figures, and I generally agree. My reasoning might play out differently in the case of a closeted gay politician spearheading repression of gay people.)

The privacy claim has intuitive appeal for lots of well-intentioned people. But it needs to be examined more closely in the context of public figures. Its foundation is an unattractive one.

Concern about the privacy of gay public figures is not a neutral concern about intimate life or sexual privacy per se. It is a

gay-specific concern. Our society continues to operate by a heterosexist default assumption. We don't suspend a view on people's sexuality pending indication one way or the other. We assume they're straight.

Relatedly, while we may view outing a gay or lesbian person as a violation of his or her privacy, we don't detect any equivalent violation of privacy in publishing, say, a photograph that shows a straight public figure romantically involved with someone of a different sex. As a hint that our default assumption is not one of neutrality and privacy, most people wouldn't even characterize the publication of such a photograph as an act of outing. A gay person doesn't come out from a neutral zone of privacy. He or she comes out by rebutting the presumption of heterosexuality.

True, some sense of privacy may attach to a public figure's partner and children. We may think it wrong for journalists to follow or question them. But there isn't any real sense that the mere knowledge of a public figure's heterosexuality is deeply private. Whence, then, the sense that homosexuality is something people may reasonably wish to keep quiet? I think it connects to a continuing sense that being gay is shameful. At a minimum, it accepts, rather than challenges, others' judgment of it as such.

After all, in respect of which other identity features do we so vociferously champion the privacy rights of figures who have already made their lives public? Today we view the secrecy shrouding U.S. President Franklin Roosevelt's physical disability as historically specific and outdated. It seems obvious that it was rooted in a shame that seems unfounded today. I think we would find it odd for a Jewish or Muslim politi-

cian resolutely to refuse to answer questions as to his or her religious affiliation.

Bardeesy of the Globe felt it was unfair to burden gay public figures with the moral imperative of coming out. He said that rather than worrying about who is out, we should focus on remedying the conditions that make life difficult for teenagers. What he overlooks is that openness on the part of public figures is one way to dissolve the shame latent in the concern for privacy. Beyond such openness, particular strategies of intervention incur risks of their own, as elucidated by the journal article I discuss in the blog entry which follows.

\*\*\*

**Daniel Monk, *Challenging Homophobic Bullying in Schools: The Politics of Progress*, 7 Int'l J. L. Context 181 (2011).**

How is it that people of wildly varying politics come together in viewing homophobic bullying in schools as an urgent problem? With whom does tackling homophobic bullying through a law-and-order paradigm make us allies? What forms of systemic homophobia, at home and in schools, does a focus on individual bullies obscure? What assumptions about queer adolescents' sexuality and agency underwrite campaigns against homophobic bullying? Why is it so much easier to crack down on bullies in school than it is to talk openly about sex?

The strength of Daniel Monk's article is that he shows convincingly that people committed to fighting homophobia can and should ask these questions. His interest is the "conditions of possibility" that have constructed homophobic bullying, discursively, as "a legitimate object of social concern within civil society." Monk identifies the key discourses that have converged so as to legitimate concern about homophobic bullying. He also explores the political investments that underlie them and the responses to bullying grounded in penal or criminal law.

One discourse is that of child abuse. Monk highlights the particularity of the social focus on homophobic bullying in schools. Gay rights and children's rights organiza-

tions do not, he notes, address the effects of parental homophobia on children. Moreover, the construction of the school as a dangerous place, and by implication the home as safer, corresponds with political and socioeconomic privatizing shifts in the perception of schooling.

Another discourse is that of the child victim. The discourse of homophobic bullying draws on images—simultaneously appalling and reassuring—of the child as innocent victim. Monk's worry is that the imagery of the child as victim silences other concerns. It desexualizes victims of bullying and effaces adolescents' sexual agency. He reports that Stonewall, the leading gay rights organization in the UK, addresses homophobic bullying on its Web site, but not young people's needs for information about safer sex.

The third discourse is that of "the tragic gay." Monk's analysis here will be counter-intuitive to many readers, but I found it disturbing and provocative. He suggests that the problematization of homophobic bullying has ushered in a shift by which the negative characteristics once associated with homosexuality are now associated with the victims of bullying. "Development into successful normal adulthood is not 'arrested' by paternal or maternal attachment, but rather by homophobia itself. In other words, the development question now is not, 'What makes someone homosexual?', but instead 'What makes someone behave in a way that fails to conform to heteronormative behaviour?'" The queer youth remains "a reassuringly distinct and tragic 'other' from that of the heterosexual." Now the developmental cause is not homosexuality, but bullying. The upshot? *Queer youth still need help.*

Monk is most bracing in his critique of the political aspirations associated with the fight against homophobic bullying. Bullying and its victims are measured as problematic against the metric of an imagined, post-homophobic future. If it weren't for bullying, goes the thinking, queer adolescents might grow up to be more normal. Gay boys might be less effeminate. They might play more team sports. They might

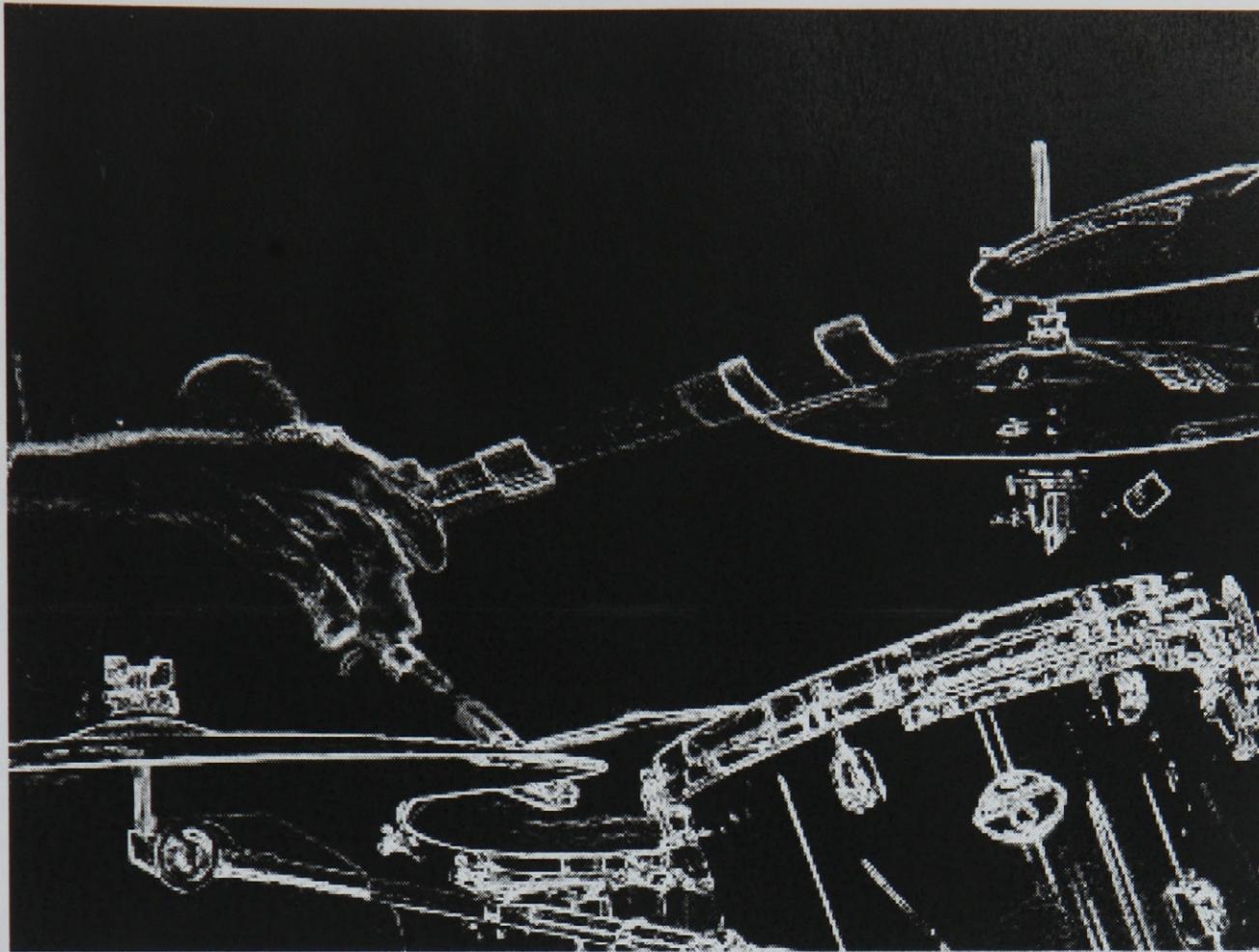
grow up to form more stable, "traditional" monogamous relationships. Here the crucial problem is that the harm chalked up to bullying is measured by an assimilative metric of straight-acting heterosexuality.

The article's analysis of the turn to law-and-order policies by some opponents of homophobic bullying gave me pause. The clampdown on individual bullies, argues Monk, individualizes the bully through a pathological gaze. Focus on the individual perpetrator erases structural forms of homophobia. Readers may vary in the relevance they accord to Monk's observation that policies making parents responsible for their children's bullying bear hardest on economically disadvantaged single mothers.

Certainly some elements of the article will resonate most in the United Kingdom (Monk is based at the School of Law, Birkbeck, University of London). The Conservative government's strong support for anti-bullying initiatives comes to mind. So does the focus on rigidly gendered school uniforms as a form of structural homophobia. But the general argument will resonate in North America, which has recently witnessed the "It Gets Better" campaign on youtube, as well as in other places.

Monk's article is not an easy read. It is densely written and its interdisciplinary range is broad. The care with which he registers caveats—in a laudable effort to specify his critique's limits—occasionally weighs on the text. But it will reward a thorough reading. I should add that it will annoy some people, including people I like and whose efforts I admire. Good critical scholarship often does.

The push for legal recognition of same-sex adult conjugality has rightly inspired a rich critical literature, chiefly from queer and feminist scholars. Daniel Monk's article joins a small, but growing, body of work that turns a critical eye on legal and social efforts related to children, be they the children of same-sex parents or queer themselves.



# Law School of ROCK

Ce soir is the night...

Monday  
November 21<sup>st</sup>

Divan Orange  
4234 Blvd St-Laurent

RS presents / nos présente  
doors open at 7:30pm  
show starts at 8:00pm



Presented by our official partners

*Blakes*

LUDOVIC  
BOURDAGES

## À ANDRÉ BRETON

J'ai besoin de poudre  
qui explose ma cervelle

c'est la destruction  
entre mon pouce et mon index  
des petites bombes à retardement  
pour éclater mes idées

mes fosses nasales dilatées  
copient les sexes baveux  
et s'ouvrent tout entier  
l'inspiration attise mes neurones

l'euphorie immédiate  
c'est l'attentat de ma raison  
les images sont les kamikazes  
qui se brûlent avec mes sens

mon cerveau se dope  
de tes cendres,

André Breton.

RADLAW

## FAITES-VOUS ENTENDRE: SSMU REFERENDUM

Vote : <http://ovs.ssmu.mcgill.ca>

November 4th – November 10th

*Do you support QPIRG continuing as a recognized student activity supported by a fee of \$3.75 per semester for undergraduate students, which is not opt-outable on the Minerva online opt-out system but is instead fully refundable directly through QPIRG, with the understanding that a majority "no" vote will result in the termination of all undergraduate fee-levy funding to QPIRG?*

*Do you support CKUT continuing as a recognized student activity supported by a fee of \$4.00 per semester for full-time undergraduate students, which is not opt-outable on the Minerva online opt-out system but is fully refundable directly*

*through CKUT, with the understanding that a majority "no" vote will result in the termination of all undergraduate funding to CKUT?*

### WHY SHOULD YOU VOTE YES ON BOTH QUESTIONS:

#### What is QPIRG (Québec Public Interest Research Group)?

QPIRG is a student-run, student-funded social and environmental justice organization. QPIRG facilitates research opportunities for students that link them up with the broader Montreal community. QPIRG also empowers students to take action: by funding and supporting more than 20

working groups, who take on different social and environmental issues in Montreal and Canada, by funding events on campus and in Montreal, by putting on event series such as Social Justice Days and Culture Shock, through organizing the alternative orientation (Rad Frosh), publishing School Schmool (an ad-free agenda and resource guide)! QPIRG has been responsible for such important milestones on McGill campus as initiating paper recycling in the 1990s, starting the first housing co-op for McGill students, and was integral in getting fair-trade coffee on campus.

## What is CKUT?

CKUT has been a part of McGill since the 1960s and on the FM dial (90.3FM) for almost a quarter of a century, and provides music and spoken word programming 24 hours a day, 7 days a week. Programming is done by over 200 volunteers, many of whom are McGill students. CKUT have news and spoken word programming produced by and for McGill students, the arts community, homeless people, LGBTQ people, people with physical and mental disabilities, and many ethnic communities. CKUT is consistently voted #1 or #2 Radio Station in the Mirror's Best of Montreal poll.

AND, there is a legal show on CKUT! LegalEase is a radio program broadcast every second Friday of the month at 11am EST. Originally founded by the McGill Legal Information Clinic in 1989, LegalEase is now run by a collective of progressive law students from McGill University. Our weekly radio show deals with legal topics of interest to the community, with the intention of making the law both accessible and engaging. Tune into our show, email us at [legalease@ckut.ca](mailto:legalease@ckut.ca), follow us on twitter @LegalEaseCkut or check our website for past programming at <http://legaleaseckut.wordpress.com>

## What benefits do members have?

**QPIRG:** As a member of QPIRG McGill, you can vote in our Annual General Meeting and run for the Board of Directors. You have access to a plethora of benefits, including: meeting space (QPIRG has three main meeting rooms); support for your projects; the largest alternative library in Montreal; training; jobs and much more!

**CKUT :** Student members participate in programming and hosting shows, station governance, and research related to their area of study. CKUT employs students for work-study jobs, and provides internship and training opportunities that can lead to careers in journalism and broadcasting. You can tune in at 90.3 FM or listen online at [www.ckut.ca](http://www.ckut.ca) to hear great music, relevant news, and programming done by and for your community.

## What is the History of Opt-Outs?

Students first voted to approve a QPIRG fee-levy in 1988. Shortly thereafter, QPIRG adopted a refund system to enable students who do not wish to fund our organization to get their money back and thus rescind their membership rights. Students would come and collect their fees at the QPIRG and CKUT offices, and this system functioned successfully for nineteen years. In the fall of 2007, the McGill Administration unilaterally imposed an online opt-out system on Minerva, without consultation with QPIRG, CKUT or any of the other affected student groups.

## What is the problem with the Minerva on-line opt-out system anyway?

It discourages informed consent: it is very difficult to guarantee that students are fully informed before opting out. If students were able to speak to representatives from the affected organizations, they could make conscious and informed decisions about their student fees; these are the kinds of conversations we want to be having on campus.

QPIRG and CKUT continue to believe strongly in students being able to decide where their money goes; we simply want these decisions to be informed.

It undermines student democracy: Students have consistently voted to support QPIRG's existence, whether through existence referenda (Winter 2007), a referendum for fee-levy groups to take back control over their opt-outs (Winter 2008), a GA motion for fee-levy groups to have control over their opt-outs (Fall 2007), and for a QPIRG fee-levy increase (Winter 2009).

Additionally, the Minerva on-line opt-out system makes it difficult for QPIRG and CKUT to continue the work that the student body has mandated it to do, primarily because of the unregulated opt-out campaigning that occurs every semester. This campaign has used all kinds of tactics to convince students to opt out of our fee, from spreading misinformation about these organizations, to trivializing our work by encouraging students to buy a beer and pizza with the money they

would save from our fee. This kind of campaign, which is not accountable to any student or student organization, has serious consequences for organizations like QPIRG or CKUT.

## What is the financial impact of the Minerva on-line opt-out system?

QPIRG can no longer count on a secure base of funding with which to carry out its mandate-- to continue supporting student events, projects, and working for social equality. With the externally imposed Minerva system, we have no way of predicting our budget (opt-outs fluctuate considerably from year to year).

**CKUT:** It costs about \$50 to produce an hour of radio at CKUT. Our costs include building rent, staff salaries, fees paid to SOCAN (so artists can make money from the music we air), and equipment purchase and maintenance. We run a tight ship, but we can't do it without student support. The station provides valuable training, internships, and work opportunities for students, so in a sense you're getting back much more than what you give.

## How will fees be returned to students if we want a refund?

QPIRG and CKUT intend to return to an in-person refund system, similar to the one we used for eighteen years. For fifteen working days each semester (ten for CKUT), students will be able to get a refund from the QPIRG and CKUT offices, located at 3647 University, with presentation of a valid student ID. Additionally, for five (three for CKUT) of those fifteen days, we will maintain a table in the SSMU building where students can get their refunds with presentation of a valid student ID. QPIRG and CKUT feel confident that the system we're proposing is fair and transparent, and allows students to make informed choices about the use of their fees. QPIRG and CKUT are committed to a refund system that is democratic, informed, accessible, and under student control.

## What happens if the majority of students vote no?

Both because the vast majority of our fun-

ding comes from student fees, and because McGill would refuse to renegotiate our legal agreement with them without student support, a no vote would mean that CKUT and QPIRG's very existence would be seriously threatened. Without our main source of funding or our lease agreement with McGill that allows us to rent the building, QPIRG and CKUT could not continue to exist.

**Why are you taking such a big risk running this question? Why not just run a regular existence referendum?**

QPIRG: To us, they are the same question. QPIRG cannot continue to exist with so much of our energy going into defending ourselves against false accusations during the opt-out period every semester, nor can it continue to exist without a secure

source of funding. When we ask the student body to affirm its support for us, we mean to affirm its support for a system that allows us to function, not one that puts continual strain on our finances and our work- and volunteer-force (which includes McGill students).

**I never use any of the services provided by QPIRG nor CKUT, so why should I fund it?**

McGill students have indicated over the past several years that they value a diverse, lively campus community. Students recognize that education is more than what you learn in class – it's about the people you meet and the experiences you have. QPIRG and CKUT are a crucial part of the campus experience for a large number of students – and for people in Mon-

treal. Being a member of the student community means that even if you personally don't plan to use a service, you still believe in the right of other students to do so. For CKUT, it's also worth noting that even students who opt out can still listen to our programming – it's a service we can't deny anyone, even those who don't support us. And for QPIRG, students can still attend our events and participate in our programming, even if they choose to receive a fee refund.

**Ok, I'm convinced. What do I do?**

Vote YES in the referendum!



**GREEN LAW  
COMMITTEE**

## UPDATE FROM YOUR FRIENDLY GREEN LAW COMMITTEE

1. Nous travaillons maintenant avec Aramark (la compagnie qui dirige la cafétéria) afin de rendre la cafétéria plus 'verte'. They have already taken two measures to this end:

- Épargnez 30 sous sur votre café ou thé quand vous apportez votre propre tasse entre 8:30-9:30 et 14:00-15:00!
- Using a frequency card that can be obtained for free at the cash register, save 25 cents on your drink anytime. After seven uses, you can present the card for a free coffee or tea!

2. We are also discussing with both Aramark and the LSA the possibility of implementing (a) composting and (b) a reusable plate service in the law cafeteria. Si vous avez des commentaires ou suggestions, n'hésitez pas à nous contacter à [greenlaw.committee@gmail.com](mailto:greenlaw.committee@gmail.com).

3. By now, we hope that you have seen our reusable plates and utensils being used at Faculty events! Ce service est un nouveau projet, et nous sommes ouverts à vos commentaires et suggestions!

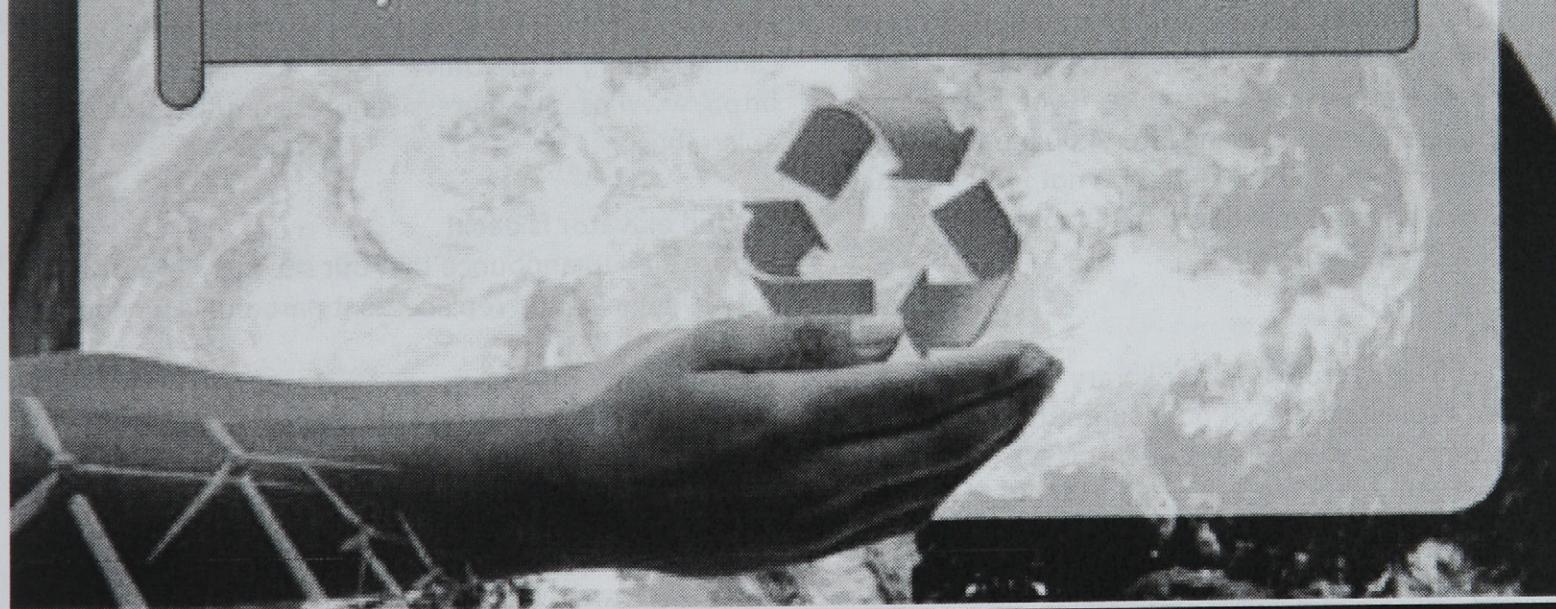
Pour ceux qui n'ont pas vu notre dernier message, les étudiants peuvent emprunter des assiettes, ustensiles et (bientôt!) des verres pour une période maximale de 24 heures. Les emprunteurs doivent laver et rapporter les objets en bon état – une amende sera imposée si les objets sont endommagés, perdus ou non-lavés. Un dépôt de 40\$ est requis lors de l'emprunt. The loan form is available both on the LSA website as well as by emailing [greenlaw.committee@gmail.com](mailto:greenlaw.committee@gmail.com). To reserve dishware for a specific date, the completed form must be emailed to [greenlaw.committee@gmail.com](mailto:greenlaw.committee@gmail.com) at least 24 hours before the event is to take place so that pick-up and drop-off times can be confirmed.

Si vous aimeriez vous impliquer en tant que bénévole, n'hésitez pas à nous contacter à [greenlaw.committee@gmail.com](mailto:greenlaw.committee@gmail.com).

Drink to the  
Earth!

**Honor Mother Earth by using  
a reusable cup or mug!**

Get Your Frequency Cards & Save \$0.25  
Everytime You use a Reusable Mug



**Happy Hour Special!!**

Save \$0.30 when you use a reusable mug

Mondays - Fridays

8:30am – 9:30am & 2:00pm – 3:00pm





# LIBRARY NEWS

## Dictionnaires de droit privé et lexiques bilingues

Good news! La référence DCL/ RJB put back online their dictionaries:

- Private Law Dictionary of the Family and Bilingual Lexicons
- Dictionnaire de droit privé de la famille et lexiques bilingues
- Dictionnaire de droit privé et lexiques bilingues - Les obligations
- Private Law Dictionary and Bilingual Lexicons – Obligations

To access the dictionaries, go to La référence (through the Law subject guide) and click the tab Droit Civil on the top. In the left-hand panel, you will see a heading Dictionnaires with the links Obligations and Famille. To switch to the English version of a dictionary, access a French one and click on Version anglaise.

## Reserve books loan

Do you know that if you are borrowing a book from reserves after 4:00 p.m., you can keep it until 11:00 a.m. of the next working day? Therefore, if you borrow a reserve book on Friday evening after 4:00 p.m., you can keep it until Monday 11:00 a.m.! Do not forget to check our service hours to make sure that you will not get a fine for a late return.

## Staplers

After a colleague from another library has been watching the 'Stapling corner' of our counter for a while, she said to me: "Apparently law students LOVE to staple". I have a similar opinion about stapling and our students, so I would like to share some stapling advice that may make your life easier in the days of assignment dead-

lines when the emotions run high, and a stapler is one of the most popular tools in this library.

- We have 3 staplers on the service desk counter: #1 (small) for the stacks of paper of a regular size, #2 (bigger) for the documents up to 80-90 pages, and #3 (the biggest) for the papers of more than 80-90 pages. Therefore, if you have a 10 pages paper, do not grab the biggest stapler – it won't work.
- If everybody is busy, and you need staples, you can 'feed' the stapler yourself using the staples from a corresponding numbered (1, 2, 3) small box that you can find at the lower part of the counter next to the staplers.
- You do not have to break your nails, if you need to take off a staple. We have staple removers in an open cardboard box at the lower part of the counter.
- Please do not hit poor devices, if they are stuck - it does not help. If you cannot remove the stuck staples, ask a library staff member to help you. (Just for fun: take a look at how they deal with a stapler abuse in the campus library at the University of Auckland: <http://www.passiveaggressivenotes.com/2011/11/01/stapler-abuse/>)

## Second elevator is back!

We are glad to announce that our second elevator has got its long-awaited replacement part and is functional (at present).

**In this column, we would be delighted to answer all your library-services-related questions. Please send your questions to Svetlana Kochkina [svetlana.kochkina@mcgill.ca](mailto:svetlana.kochkina@mcgill.ca), Liaison Librarian Nahum Gelber Law Library.**



## RAPPEL : ENVOYEZ-NOUS VOS ARTICLES ! Deadline is every Thursday at 5 pm.

**Important:** include your name and year of study *in the body of the Word document.*



# FACULTY COUNCIL REPORTS

*Cette série d'articles paraîtra une fois par mois dans le but d'informer les étudiants des discussions ayant lieu au Conseil de la Faculté. Le Conseil est la plus haute instance législative de notre faculté et il a le mandat d'approuver tant les cours offerts que la création de bourses d'études, les changements au curriculum, etc.*

## Meeting of September 28, 2011:

### L.L.B./J.D. Discussion

The question of whether the faculty should switch from an L.L.B. to J.D. designation for the undergraduate common law degree was raised by Dean Daniel Jutras in his opening remarks. The Dean's comments were fairly general: he noted that many other schools had made the switch, and that a recent LSA referendum question had endorsed such a switch. As Dean Jutras put it, "This is a conversation that the students have had, but not yet one that we the faculty have had." The Dean stated that any change would have to be taken in consultation with alumni and other stakeholders, and that the issue was far from settled, at either the student or administrative level. Following the Dean's remarks, an LSA representative presented the Faculty Council with a resolution passed at the Sept. 26th LSA council meeting. It reads as follows:

WHEREAS the LSA membership was asked on April 8, 2011:

"Do you support changing the common law degree designation from the LL.B. to the J.D.? [NB: The results of this vote are not binding on the Faculty]"

« Appuyez-vous la modification du diplôme common law de LL.B. à J.D.? [NB: Les résultats de ce vote ne sont pas contraignants sur la décision de la faculté] » and the results of the referendum were 212 in favour of changing the name of our common law degree from L.L.B. to J.D., 87 were opposed and 11 spoiled their ballots;

BE IT RESOLVED THAT the LSA Council shall dedicate its resources, to the best of its ability, to advocate in favour of chang-

ing the name of our common law degree from L.L.B to J.D.

BE IT FURTHER RESOLVED THAT the VP-Academic shall report once a month to LSA Council on the progress of advocating for the J.D.

### Ongoing MUNACA Strike

There was a brief informal discussion among several faculty members of the ongoing MUNACA strike by McGill non-academic staff. However, Faculty Council did not formally address the issue of the strike, nor from what the Dean said, does it have any power to do so. As an academic body, the strike is outside of Faculty Council's mandate. As such, no position on the strike was taken by Council at the conclusion of the discussion.

### Développements de la faculté en Asie

La doyenne adjointe à la planification stratégique, Véronique Bélanger, a fourni des détails sur les développements récents en Asie. Pour commencer, elle a tenu à remercier l'Asia Pacific Law Association of McGill (APLAM), en insistant sur le fait que ses membres ont grandement contribué à ces développements par leurs encouragements et grâce aux informations et aux contacts qu'ils ont fournis. Elle n'a pas manqué de souligner qu'il a été très agréable de travailler avec eux. Elle a ensuite énumérée les développements récents dans les relations de la faculté avec ses partenaires institutionnels asiatiques : (1) des cours conjoints enseignés par McGill et l'Université Nationale de Singapour sont une possibilité réelle qui dépend seulement de l'accès de la faculté à la technologie nécessaire. (2) L'Université de Hong Kong aura bientôt des places réservées pour les échanges en droit. (3) McGill tente de finaliser une entente cadre avec l'Université Fudan, ce qui

devrait permettre à deux étudiants par semestre de participer à un échange et ce à partir de 2012. La priorité sera donnée aux locuteurs de mandarin. (4) Des négociations ont été ouvertes avec les meilleures universités chinoises basées à Beijing, mais puisqu'elles sont très sollicitées par d'autres universités de partout dans le monde, la compétition est forte et les progrès restent difficiles. (5) D'autres opportunités de stage sont aussi à l'étude. Pour citer le doyen sur la question des développements en Asie : « For the last two decades, this faculty has pretty much ignored Asia. That's no longer acceptable, if it ever was. »

### Gold-Janda Grading Report

Apparently there has been some talk at the faculty level about changing, or at least tweaking, the grading system. When your faculty councillors asked for a copy of the report, we were told that unfortunately it contains confidential grading information, so it cannot be publicly released. We did receive the following general explanation: "Yes, the Dean mentioned the report. The problem is that it was presented at a closed session of Faculty Council and contains confidential grading information. What I can say is that there have been some rule changes at the university (the elimination of 100% exams in most courses) that require us to review our grading guidelines as well as the need to review and refresh them from time to time. The Dean has given the Examination Committee a mandate to review these guidelines."

### Changements possibles aux exigences du diplôme de Common Law

La Fédération des ordres professionnels de juristes du Canada (FLSC) a publié un rapport concernant les exigences que les facultés de droit canadiennes devront

remplir pour permettre à leurs étudiants de passer les examens de barreau. Le rapport est disponible en ligne à l'adresse suivante : [http://www.flsc.ca/\\_documents/Common-Law-Degree-Report-C.pdf](http://www.flsc.ca/_documents/Common-Law-Degree-Report-C.pdf) Il contient quelques nouvelles exigences. Celle ayant suscité le plus de discussion au Conseil de la faculté concernait l'enseignement des « relations juridiques et fiduciaires dans un contexte commercial ». Malgré le fait que le rapport indique que cette exigence pourrait être remplie de plusieurs façons, la plupart des membres de la faculté avaient de la difficulté à imaginer comment cela pourrait être fait sans rendre le cours « business association » obligatoire. Les nouvelles exigences proposées sont censées entrer en vigueur en 2014, ce qui veut dire qu'elles auront un effet sur les étudiants de 1L qui resteront dans le programme pour 3.5 ou 4 ans.

#### Course Evaluations

The Faculty of Law has the lowest completion rate for course evaluations of any faculty in the university. Some strategies were debated at Council about how to improve this situation. Your student councillors were disappointed to learn that law, of all places, had the lowest participation rates in the course evaluation process. Course evaluations are an important component in hiring decisions for part-time lecturers, and for promotion decisions concerning full-time professors.

#### Meeting of October 26, 2011:

##### Mot du doyen

Le doyen a annoncé que la faculté de droit a réussi à convaincre l'université de renommer le Centre de recherche en droit privé et comparé du Québec pour y inclure le nom de Paul-André Crépeau, le fondateur du centre et un

membre très respecté de la faculté décédé en juillet dernier.

Le doyen a par ailleurs annoncé qu'en plus des trois permis de recrutement que la faculté possède déjà, l'administration de McGill a octroyé sept permis additionnels à la faculté à la demande de celle-ci. Puisque le processus de recrutement est une tâche ardue et coûteuse, ces postes seront comblés au cours des années à venir. Cela amènera le nombre de professeurs à temps plein au nombre de 45 à la faculté, renversant ainsi le phénomène d'attrition qu'elle subit depuis 2002. Les nouveaux postes sont attachés à une liste de domaines du droit (droit éthique, droit comparatif, droit publique, droit criminel, etc.), mais cette liste est assez longue et les domaines assez larges pour permettre à la faculté une discréTION significative. On tente présentement de combler la chaire Peter MacKell en fédéralisme, récemment créée par une dotation de 3 millions de dollars.

##### Soumission des travaux au Bureau des affaires étudiantes (SAO)

La vice doyenne à l'enseignement, Jaye Ellis, a rapporté que la faculté s'apprête à permettre aux étudiants de soumettre leurs travaux électroniquement au bureau des affaires étudiantes malgré le fait qu'il y ait eu certains pépins dans le processus. Professeur Ellis a informé les membres de la faculté qu'il serait préférable que les travaux soient soumis en utilisant le nom de l'étudiant plutôt que son numéro d'examen lorsque les projets valent 25% ou moins de la note finale d'un cours. Elle a aussi souligné que lorsque qu'un travail est soumis en utilisant le numéro d'examen, il n'existe présentement pas de mécanisme pour permettre à l'instructeur d'offrir une rétroaction individualisée.

#### Report of the Curriculum Committee

In response to a recent report issued by the Federation of Law Societies of Canada (FLSC) regarding standardized Common Law degree requirements for Canadian law schools, the Curriculum Committee noted that the following subjects would need to be addressed by McGill's curriculum in some manner: statutory interpretation and case analysis; equity; administrative law; and legal/fiduciary obligations in the context of commercial relationships. There was a lengthy discussion, led by Prof. Roderick Macdonald, of how to respond to this report and what its potential impact on the program would be. The opinion communis was that McGill already met many of the criteria and would not need to completely overhaul its program nor extensively modify existing course content. There was some debate over whether to ensure that the standard degree met FLSC criteria or whether to have students' curricula accredited on an individual basis, though the general consensus is leans toward the collective option. The FLSC's report can be viewed here: [http://www.flsc.ca/\\_documents/Common-Law-Degree-Report-C.pdf](http://www.flsc.ca/_documents/Common-Law-Degree-Report-C.pdf)

#### Motion Commemorating Alexandra Dodger

The Faculty Council unanimously passed a motion commemorating the many contributions to the Faculty of Law made by 2011 Faculty graduate Alexandra Dodger, who passed away suddenly in Ottawa on October 15.

*By Eden Alexander, Pascale April, Eric Brousseau, Michael Shortt and Derek Zeisman*



## Annie MacDonald Langstaff **hrwg** Workshop Series **gamdp**



McGill Centre for  
Human Rights and  
Legal Pluralism

Hilal Elver

# Adjudicating Freedom of Religion and Secularism: The ECHR's New Headache

Nov. 16 | RM 16 OCDH, Faculty of Law, McGill University | 12:30 - 14:00





# SAO REMINDERS

*Please visit the SAO web site information on various items: <http://www.mcgill.ca/law-studies/information/>. All enquiries may be forwarded to [info.law@mcgill.ca](mailto:info.law@mcgill.ca), please enter a descriptive topic in the email subject line.*

## APPOINTMENTS

If you need to make an appointment to see a student advisor, please email [info.law@mcgill.ca](mailto:info.law@mcgill.ca) and enter **APPOINTEMENT WITH STUDENT ADVSOR REQUIRED** in the subject line and provide a choice of dates and times when you are available. An appointment will be made with one of the following individuals:

- Student Affairs Officer: [Nancy.Czemann@mcgill.ca](mailto:Nancy.Czemann@mcgill.ca)
- Assistant Dean (SLL): [Aisha.Topsakal@mcgill.ca](mailto:Aisha.Topsakal@mcgill.ca)
- Associate Dean (Academic): [Jaye.Ellis@mcgill.ca](mailto:Jaye.Ellis@mcgill.ca)

## EXAM NUMBERS

Written final exams are anonymous according to the procedure established by the Faculty. Undergraduate and Graduate Students must remember to pick up an exam number (a 4 digit, term specific number) from the SAO. Students cannot enter an exam room WITHOUT an exam number or a McGill ID Card.

## EXAM CONFLICTS

Deadline to report an exam conflict to the SAO is November 18th, 2011 at 15:00. An Exam Conflict form must be completed and submitted to [info.law@mcgill.ca](mailto:info.law@mcgill.ca).

Students may not make a Law course selection that produces an exam schedule conflict.

Students who may find themselves with an exam conflict between a non-law and law course may be required to write the law examination in advance of the regular examination date, e.g. on the first available work day preceding the regular examination. A conflict is defined as two overlapping examinations, or three consecutive examinations in two days.

Students will be asked to sign a confidentiality form confirming that they will not discuss the examination with anyone until after the regular examination has been written.

## USING MYCOURSES / WEBCT TO SUBMIT ASSIGNMENTS

Due to the MUNACA strike, the SAO does not have the resources to collect hard copies of written assignments. All assignments that normally pass through the SAO must be submitted in electronic format. The faculty standard deadline of 15:00 still applies unless an earlier deadline is indicated by the instructor.

WebCT: A number of professors will be collecting assignments

via WebCT <http://www.mcgill.ca/mycourses/> drop boxes. Please see the WebCT submission instructions posted on the SAO web site.

Email: If your professor does not use WebCT, submit assignments to [saoassignments.law@mcgill.ca](mailto:saoassignments.law@mcgill.ca). \*Do not cc the instructor if the assignment is to be submitted anonymously.

You must submit using your McGill Email Account.

Please enter the course title, instructor name and student identifier (IDNUMBER or NAME) in the Subject Line of the email.

The file name must also include the course title, instructor name and an identifier (e.g. Student Name, Student ID Number or Exam#). Check with instructor on how the assignment is to be identified.

Mandatory checklist: When submitting assignments, you MUST fill out the Checklist for electronic submissions and submit it along with your assignment.

Please use the standard faculty cover page.

La politique de la Faculté en ce qui concerne les demandes d'extensions demeure inchangée. Veuillez envoyer vos demandes à [info.law@mcgill.ca](mailto:info.law@mcgill.ca).

## EXTENSIONS

The deadline for all in-course assignments is 15:00 (unless the instructor specifies an earlier time). Submissions received after 15:00, without an approved extension, will be subject to a grading penalty. All assignments submitted to the SAO are final - students will not be permitted to submit any additional work or an alternative version. Only the initial submission to the SAO will be forwarded for grading.

Students must submit their extension request in writing directly to the Student Affairs Officer Nancy Czemann prior to the submission deadline. <http://www.mcgill.ca/law-studies/information/extensions/>

## GRADUATION

We ask that you apply to graduate on Minerva as soon as possible especially if you intend to complete the program requirements at the end of December 2011. The SAO has recently been asked by the Barreau to confirm eligibility and it would be extremely helpful if you have already applied to graduate on Min-

erva. Students on Exchange must notify the SAO via [info.law@mcgill.ca](mailto:info.law@mcgill.ca) that they intend to graduate by December. Please enter GRADUATION in the email Subject line.

<http://www.mcgill.ca/law-studies/policies/graduation/>

Undergraduate students and non-thesis LL.M. students who expect to graduate at the end of a term must do the following:

- Apply for graduation on Minerva . If you are away on exchange, please contact [info.law@mcgill.ca](mailto:info.law@mcgill.ca) directly.
- Review the Graduation and diploma information on the McGill Student Information site for information regarding the convocation ceremony, how to make sure your name is spelled the way you want on the diploma, when to pick up your diploma, etc.
- Review your academic record in order to ensure you have met all the degree requirements.
- Complete the CDO Graduation Survey.

Deadline to apply to graduate on Minerva for all Undergraduate students and Graduate students in all non-thesis programs (certificates, master's non-thesis):

- Students who intend to graduate at the end of the Fall 2011 term (courses completed by December 2011, degrees granted in February 2012, attend June 2012 convocation) must apply on Minerva by November 30, 2011.
- Students who intend to graduate at the end of the Winter 2012 term (courses completed by April 2012 for June 2012 convocation) must apply on Minerva by March 5, 2012.
- Students who intend to graduate at the end of the Summer 2012 term (courses completed by August 2012 for October 2012 convocation) must apply on Minerva by March 26, 2012.

For information on the convocation ceremony go to:

<http://www.mcgill.ca/convocations/>

## COURSE EVALUATIONS

After receiving student input, the Faculty of Law has decided again this term to extend the course evaluation period until the end of the examination period. The course evaluation period will run November 14 – December 22, 2011.

### Evaluating your courses

Your course evaluations help us refine courses and improve our curriculum. They're also used as indicators of a given instructor's teaching effectiveness, and are considered in decisions regarding tenure. Your evaluations are completely anonymous and are not linked to your ID number. Evaluating a course takes roughly five to ten minutes and we strongly encourage you to help us ensure that our course offerings are as good as we can make them.

Course evaluations at McGill are submitted through the Mercury online tool. Click [here](#) for information about how to use Mercury

Please address any questions, comments or feedback to: [mercury.info@mcgill.ca](mailto:mercury.info@mcgill.ca).

Don't forget that:

- Questionnaires in Law are all less than 25 items and take from 5-10 minutes to complete.
- You may now "opt-out" of an evaluation clicking the "Decline Course Evaluation" button for a specific course. By doing so, you will no longer receive reminders and, if you provide comments, we can better understand your reasons.
- Course evaluation results from previous terms are available in Minerva/ Student Menu/Mercury Online Course Evaluations/View course evaluation results.
- Course evaluations are anonymous.

When you complete the course evaluation questionnaires, you help to:

- provide feedback to instructors to help them improve their teaching and courses;
- inform students about courses and instructors: the results are available online to students IF enough responses are received and professors give permission;
- provide information on teaching effectiveness as one factor in decisions concerning merit pay, tenure and promotion, and teaching awards.

Thank you for your participation.

## ROOM REQUESTS FOR INTERNAL LAW EVENTS ONLY

Due to the strike, the SAO is only accepting requests for internal Law events. Furthermore, requests received must allow for a minimum of two weeks processing time.

Occasionally, there are events that are scheduled back-to-back in the same room. Rooms must be returned to their original condition (chairs, tables back in their original position as the room was designed). If a room is found in disarray after a booking, the person(s) who booked it may be liable for cleaning services at a minimum charge of \$245.

Students must complete the Online Request Form for approval first. Only once the event is approved can the student organizer proceed in making other arrangements or publicize the event.



## TUTORIAL SERVICE ANNOUNCEMENT

The McGill Writing Centre is pleased to announce the launch of a pilot tutorial service effective Monday, October 17th, 2011. Some time during the next two weeks, ICS will be setting up an online appointment system, which students will be able to access via our webpage ([www.mcgill.ca/mwc](http://www.mcgill.ca/mwc)) under a new "Pilot Tutorial Service" tab. For the time being, students who wish to make an appointment to see a tutor should sign up on the sheets posted on the main door of the Centre: Redpath Library, Main Floor, Room #02. Students may also use the service on a drop-in basis.

Appointments are for 30 minutes. Students are requested to please show up on time so as to make maximum use of the appointment. **Please see the cancellation policy below.** Tutors will emphasize writing techniques and strategies as well as self-editing processes that will help you to identify and eliminate common mistakes, express yourself clearly, and organize your ideas and arguments effectively. **Please note that tutors are not available merely to proofread or edit your work.** This would not only violate McGill's policies on academic integrity but also inhibit your own development as a writer.

### Cancellation and Lateness Policy:

A student who shows up 15 minutes late will be deemed to have cancelled the appointment. In that case, a late penalty of \$25 will be charged. A late penalty of \$25 will also be charged to students who fail to cancel an appointment and/or do not show up for an appointment. In all such cases, the student will not be able to make another appointment unless and until the late penalty is paid.

Please contact the Tutorial Service Coordinator, Dr. Richard Cooper, for any additional information:  
[richard.cooper@mcgill.ca](mailto:richard.cooper@mcgill.ca).



*Co-contributor-in-Chief, Legal Frontiers*

## LEGAL FRONTIERS NOMINATED FOR TOP 25 INTERNATIONAL LAW BLOGS

For the second year, Legal Frontiers has been nominated by LexisNexis as a nominated candidate for the Top 25 International & Foreign Law Blogs of 2011, featured on the LexisNexis International & Foreign Law Community.

Legal Frontiers is an excellent example of the skillful and insightful legal analysis that McGill students embody. Although the blog is new, only having been created in 2009, this is the second time that it has been nominated for an international blog award.

We hope that this both renews and encourages student and faculty energy for contributing to our blog.

N'oubliez pas de voter pour Legal Frontiers à l'adresse suivante : <http://www.lexisnexis.com/community/international-foreign-law/>. Pour en savoir davantage sur le blogue ou vous impliquer, consultez notre page web à l'adresse suivante : <http://www.legalfrontiers.ca>

**VOW OF (SILENCE)**

JOIN THE MONTREAL MOBILIZERS AND  
**TAKE THE VOW OF SILENCE**

**THE HOUR BEGINS AT 2PM  
ON SUNDAY  
NOVEMBER 20TH**

CONTACT: MORRIS NEFOR QUESTIONS

450-284-5040 OR 514-387-1100

OR CAMBIE AND CO. LTD.



**FREE THE CHILDREN**  
children helping children through education

JONATHAN  
BROSSEAU

## CRIME\_11

peux je te l'héroïne l'affirmer  
sait émouvoir jusqu'à pâle bleu toi  
et boulimie des yeux fermés dans le  
placard n'ouvre porte pas la seigneur  
je supplie ces gestes de ne révise  
gras mots ces sur mon enfant de corps  
comme dans l'écrou je me sens bien  
être plaisir des colmatés yeux pour  
chaque fois où je te l'ai dit je l'ai  
cru nous finirons le pont et l'automne

ANDREW  
BAKER

CARTOON

*I know you're all stressed with memos,*

*journal work, transsystemia,  
JDs versus LLBs,*

*but don't forget to citations', changing your clinic shifts*

## REMEMBER SOUVENIR

*le Code Civil, how les ascenseurs (thx Margaret),  
B-MIMUSES, good you FACTUMS statutes,  
really have it here*



1. Baker, Andrew. November, 2011.

DAVID GROVES

## THE LOYALTIES OF A LEGISLATOR

So I've been re-watching *The Sopranos* lately, and I've got to say, if I've learned one thing,\* it's that human beings put a lot of value in loyalty. A mob show is an obvious example, but it's all over pop culture: we love the faithful friends (Frodo and Sam), we hate the traitor (that bald guy in *The Matrix*), and we always find a place in our heart for the deserter who comes back (Han Solo). Loyalty is at the core of friendship, respect, and mutual accomplishment. When we get into trouble, as Ringo Starr reminds us, we get by with a little help from our friends. But there are two sides to the coin. Sometimes, in the thick of things, our sense of allegiance turns base, clannish, and punitive. That might make for good television, but it makes for terrible politics.

Last week, a private member's bill, C-306, was submitted to the House of Commons for a second reading. Put forward by Mathieu Savignat, an NDP MP from Pontiac, and bearing the exciting title of "An Act to Amend the Parliament of Canada Act (Political Affiliation)", it gives disloyal MPs a parliamentary kiss of death, forcing those who switch parties while in Parliament into an automatic by-election. In other words, if you cross the floor, you pay for it.

The argument for the bill is as follows: if you vote for a person, you are voting for them and for their party – its values, its platform, and its leadership. If they leave their party, then they have betrayed what you voted for, and you should be entitled to vote for a new person. The typical defection is usually followed by a reward,

like a promotion to Cabinet (Belinda Stronach, 2005; David Emerson, 2006), so it's not hard to conclude that these moves are motivated by self-interest, rather than a heartfelt conversion. They also engender bitterness and cynicism – like I said, who loves a traitor?

This idea has been around for a while, in different forms. Since 1997, an anti-floor-crossing bill has been brought to the House of Commons seven separate times (there's actually a second one in parliament right now, sponsored by another NDP MP, Peter Stoffer). It's even shown up in provincial legislatures. In 2006, Manitoba passed legislation preventing MLAs who quit their parties from joining new ones, banishing them to the tundra of independent status. Loyalty is clearly an issue that keeps our elected representatives up at night, tossing and turning with fear. Never mind that, since 2004, there have been a grand total of four party switches in the House of Commons, all of whom either resigned before or didn't survive their next election. You might think this is as clear a message the citizens of a representative democracy can send on how they feel about the infrequent practice of floor-crossing, but the bill's supporters don't. They want the cost of defection to be instantaneous, preventing everyone but our most beloved politicians (cue tumbleweed, sound of crickets) from even attempting it.

Here's the thing: loyalty is great, but to whom? We elect our representatives in the hopes that they will be loyal to us. This bill, however, enforces party loyalty.

It would be naïve to assume that politicians cross the floor out of a sudden realization that their party's policies no longer accurately reflect the values of their constituents, but it would also be naïve to assume that this amendment is designed to maintain a faithful connection between the people and their representatives, who are highly unlikely to support every single element of their MP's party's platform. Its main effect will be to punish and discourage free-thinking traitors, who may even have good reason to cross the floor.

Now, I'm not endorsing rampant, corruptive party-swapping, but it's a fact of legislative systems that a legislator's influence, and therefore their constituents' influence, comes from his or her vote. Crossing the floor is an extreme, and rare, expression of this freedom of choice, but its mere existence provides bargaining power to the otherwise toothless legislator. Bill C-306 strips away that bargaining power, and further solidifies control in the hands of the parties and their leaders. It will make our already onerous and rigid party loyalty system that much stronger and the potential of any one MP to make a meaningful contribution that much smaller. If it passes, we might as well just be voting for Prime Minister. Legislators are sent to Ottawa to represent the interests of their particular riding, not to represent their party. Let's hope they remember where their loyalties really lie.

\* Well, I have learned many things, like how to staple a man's tie to his own body... but let's not get into that here.

# OVERHEARD AT THE FAC

*Explaining why they were admitted:*  
2L: Adopted, want to save the world.  
2L: Gay, want to save the world.  
\*high five\*

*A reply to last week's editorial:*  
2L: Maybe you're vampires and instead of sparkling in the sun you just sneeze...

Prof. Adams: Two weekends is a good time to give for assignments - the first weekend to ignore it and the second to panic.

Prof. Gold: What would be a luxurious lot?  
2L: 3644 Peel.  
Prof. Gold: Right, so you couldn't substitute this for the med school.  
Prof. Adams: Do people still use Kaleido-

scopes or it that "so 60s"? (class laughs)  
You know what, in the 60s we landed on the moon okay? It puts the iPhone in perspective.

2L, *re: family law*: It's about time we look at marriage — kids piss me off.

Prof. Gélinas : Je suis d'avis qu'un gouvernement de femmes serait bien mieux qu'un gouvernement par les hommes. Mais un gouvernement par les lois, c'est encore mieux!

Prof. [redacted]: Let's just say I have never read a decision by Justice Laskin that was easy and transparent.  
Prof. Adams: I must admit my shameful secret: I don't use Twitter, I don't use Fa-

cebook. Where is my life going?

Legal Ethics panelist: Most people don't *only* do crime for a living!

Prof. [redacted]: What? I don't look like someone who could run a brothel? Watch me!

2L: Can I have your *Quid*?

2L: I'll just finish reading *Overheard at the Fac* and it's yours.

Prof. Jutras: Quand j'étais en première année, un élève a demandé en droit constitutionnel: "Où s'assoie le législateur à l'Assemblée nationale?" Une question légitime.

**SEND YOUR OVERHEARDS!**  
**quid.overheard@gmail.com**

## ERRATUM

*Many thanks to Scott Horne, 2L, for correcting an overheard from last week.*

To the Editor of the Quid:

Your prurient interest ("Overheard at the Fac" (2011) 33:7 *Quid Novi* 30 at 30) in [the] statement «You can call it a spade ... but in law we will call it a HO!» seems to have been piqued by a lamentable defect in your informant's vocabulary, spelling, comprehension, sensitivity to context, or knowledge of ordinary agricultural tools. What Prof. [redacted] said was «we will call it a hoe». He was alluding to Lord Templeman's well-known observation (*Street v Mountford*, [1985] AC 809 (HL) at 819) that «[t]he manufacture of a five-pronged implement for manual digging results in a fork even if the manufacturer, unfamiliar with the English language, insists that he intended to make and has made a spade».

But your informant's error is perhaps understandable in light of Prof. [redacted]'s belief that a hoe has prongs.

